IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 1863 OF 2004

IN

EXECUTION APPLICATION NO. 325 OF 2003

IN

SUM. SUIT NO. 4190 OF 1998

Suresh Gyanchand Kumar .. Plaintiff.

Versus

M/s. Nitul Textiles &

Others. .. Defendants.

And

Bank of Baroda .. Applicant.

..

Mr. K.I. Shah for the applicant.

Mr. M.P. Jadhav for plaintiff.

Mr. S.C. Jodhavat for Judgement Debtor.

CORAM : S.U. KAMDAR, J.

DATE : 19TH JANUARY, 2005

P.C.

1. By consent of the parties, the Chamber Summons itself is taken on board for hearing and final disposal.

2. The Commissioner for Taking Accounts is directed to proceed with the sale of the properties which are subject matter of attachment. However, the Commissioner for Taking Accounts shall not disburse the sale proceeds to any of the parties. The applicant will be at liberty to prove their claim before the Commissioner for Taking Accounts in respect of the mortgage of the said property and if it is so mortgaged then the first payment will be made to the applicant Bank towards discharge of their claim arising out of the said securities and balance, if any, will be payable to the decree holder.

3. Subject to the aforesaid directions, the Chamber Summons disposed of. No order as to costs.